

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

ANDREW L. COLBORN,

Plaintiff,

vs.

Civil No.: 19-CV-484

**NETFLIX, INC.; CHROME MEDIA LLC,
F/K/A SYNTHESIS FILMS LLC; LAURA
RICCIARDI; AND MOIRA DEMOS,**

Defendants.

**(CORRECTED) JOINT MOTION FOR ADJOURNMENT OF
JULY 8, 2020 HEARING**

Plaintiff and Defendants Laura Ricciardi, Moira Demos, and Chrome Media, LLC (the “Producer Defendants”), by their respective counsel, move for an adjournment of the evidentiary hearing on the moving Defendants’ motion to dismiss as to service of process pursuant to Rule 12(b)(5) that is currently scheduled for July 8, 2020 (incorrectly described as July 6, 2020, in the prior version of this motion), in these proceedings.

The parties, through their respective counsel at the time, previously requested in January 2020 that the Court reschedule the hearing from March 6, 2020, to the week of July 6, 2020, because they anticipated that the additional time would allow the parties to exchange information, formally or informally, with respect to witnesses who reside outside of Wisconsin

and that it will allow the parties to confer and determine which issues may be stipulated in order to reduce effort and expense prior to and at the hearing.

Unfortunately, the coronavirus pandemic subsequently struck and has made it infeasible to gather and exchange information as had been anticipated, including with respect to witnesses who reside outside of Wisconsin.

For this reason, the above-identified parties respectfully request that the evidentiary hearing on the Producer Defendants' motion to dismiss be rescheduled. While the parties agree that it is necessary to reschedule, they have differing views on how the evidentiary hearing should be rescheduled:

- Plaintiff requests that the evidentiary hearing be rescheduled for a date certain in or around November or December 2020, with the exception of the following dates in November or December on which Plaintiff's lead counsel has scheduling conflicts: Thursday, November 12, 2020; Monday, November 16, 2020; and the week of December 14, 2020 (December 14-18, 2020). Plaintiff also would request that the hearing not be scheduled during the week of November 23-27, 2020 (Thanksgiving week), when the Producer Defendants' counsel has a conflict.
- The Producer Defendants request that the Court wait to reschedule the evidentiary hearing until after the Court has ruled on Defendant Netflix's pending and now fully-briefed motion to dismiss pursuant to Rule 12(b)(6).

The Producer Defendants' position is that if Netflix's Motion is granted, that would dispose of the entire case, including any claims that Plaintiff might have against the Producer Defendants, as the arguments that Netflix raises in its Motion are equally available to the Producer Defendants, *see* Dkt No. 131 at 2, and any issues about service of process on the

Producer Defendants would be moot. The Producer Defendants do not believe it makes sense to expend significant party resources and impose additional burdens on the Court with an evidentiary hearing on the Producer Defendants' motion that may ultimately prove unnecessary.

Plaintiff's position is that it will introduce additional delay, beyond that which is necessary, to postpone the resolution of the service issues to indefinitely pending the outcome of Netflix's motion, because by Netflix's own acknowledgment, it placed voluminous material before the Court for consideration. The determination of a complex motion that presents numerous legal defenses would doubtless require a significant amount of time to consider under the best of circumstances, and the timing of the recent pandemic and associated delays and postponements in other proceedings can only reduce the likelihood that the complicated factual and legal issues raised by Netflix's motion can be addressed in the near future.

In summary, the above-identified parties jointly request that the evidentiary hearing be adjourned; their disagreement is with respect to the eventual timing of the hearing. The parties, through their counsel, therefore respectfully request that the hearing be adjourned to a date and time in November or December, 2020 (with the exception of Thursday, November 12, 2020; Monday, November 16, 2020; the week of November 23-27, 2020; and December 14-18, 2020), as requested by Plaintiff; that it be stayed awaiting the resolution of Netflix's motion, as requested by the Producer Defendants; or to a date and time that the Court may deem appropriate under the circumstances.

Dated this 19th day of June, 2020.

PLAINTIFF ANDREW L. COLBORN:

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